



**City of Davis**

**Utility Rate Advisory Commission Minutes**

**Community Chambers Conference Room, 23 Russell Boulevard, Davis CA 95616**

**Wednesday, February 21, 2018**

**6:30 P.M.**

Commissioner Members Present: Gerry Braun (Chair), Olof Bystrom, Jacques Franco, Lorenzo Kristov, Richard McCann, Elaine Roberts Musser, Johannes Troost

Absent: Mariyam Azam

Staff Present: Stan Gryczko, Assistant Public Works Director,

Additional Attending: Lucas Frerichs, Councilmember  
Richard Tsai, Environmental Resources Manager  
Adrienne Heinig, Administrative Analyst  
Matt Williams, Alan Pryor, Larry Guenther

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**1. Call to Order and Roll Call**

Meeting was called to order by Chairperson Braun at 6:31pm.

**2. Approval of Agenda**

E Roberts-Musser requested the chair move Item 6D before Item 6C. J Troost moved, seconded by L Kristov, to approve the agenda as amended. The motion passed as follows:

Ayes: Braun, Bystrom, Kristov, Franco, McCann, Roberts-Musser, Troost

Noes:

Absent: Azam

**3. Brief Announcements from Staff, Commission Members, and City Council Members**

- Councilmember Lucas Frerichs spoke to the Commission briefly on the City Council meeting conducted the previous evening. He stated that he wanted to come to the commission to listen to the discussion and thoughts on the actions taken by Council for the Davis Waste Removal (DWR) Right of First Refusal option. He also expressed his understanding that some were not happy with the decision made by Council, and explained that the contract process did not allow for the expected level of transparency. He stated his personal opinion that he did not believe the city had lost ground, and reiterated the value of the expertise on the Commission. He noted his appreciation for the participation of the members in the commission, (also for their work on the Valley Clean Energy Alliance for those members in both groups), and expressed optimism for the work ahead.
- E Roberts-Musser reported that Don Saylor attended the most recent Rotary Club meeting and gave a talk about the Valley Clean Energy Alliance (VCEA).

- E Roberts-Musser also reported that her new water meter was installed.
- O Bystrom provided an update on his work with SMUD, and stated that he will be leading the SMUD side of the resource planning process with VCEA that will be conducted over the next few months.
- J Troost requested that the meeting be recorded and received the consent of the group.

#### 4. Public Comment

- Matt Williams: Stated his dissatisfaction that the URAC is the only commission without a City Council liaison, and given the events of the last 6 months, having a permanent City Council liaison would be very helpful. He requested that a discussion item on the topic be brought to the Council.
- Alan Pryor: Stated that he did not see what council or staff deliberated on for the DWR Right of First Refusal, but the information in his opinion is not all confidential. He said he wanted to see the appraisal report, and that staff should provide all the documentation they can, even if it needs to be redacted. He asked the items be provided prior to anyone having to file a Freedom of Information Act (FOIA) request.

Returning to the Commission discussion, G Braun requested that any information provided as background on the staff and council deliberations during the DWR discussion be provided to the URAC as well.

#### 5. Consent Calendar

##### A. URAC Draft Minutes - December 14, 2017

##### B. URAC Draft Minutes - January 11, 2018

E Roberts-Musser requested one revision to the minutes of January 11, 2018, the addition of an “of” on page 2 item 6E, within the fourth sentence of the first paragraph, between “members” and “the VCEA.” E Roberts-Musser moved, seconded by J Franco, to approve items 5A and 5B, as amended, of the consent calendar. The motion passed as follows:

Ayes: Braun, Bystrom, Kristov, Franco, McCann, Roberts-Musser, Troost

Noes:

Absent: Azam

#### 6. Regular Items

##### A. Updates from the Enterprise Fund Reserve Policy Subcommittee, and Task Force on Solid Waste Rate Infrastructure Analysis related to Potential Davis Waste Removal (DWR) Sale.

G Braun introduced the item for discussion by providing an outline of the monthly subcommittee report appropriate to a regular update. He requested a brief discussion, a review of the task and objective, what was accomplished since the last report, what is planned to be accomplished in the next month, and what roadblocks if any exist impeding progress.

E Roberts-Musser reported that the Enterprise Fund Reserve Policy subcommittee has met and divided up tasks, but are waiting on staff to provide data. When asked, the data not yet received by the subcommittee is the previously requested financial data. S Gryczko stated that he would check with Finance to request a timeline for when that information will be provided.

J Franco reported that the Task Force composed of J Franco, R McCann and Doug Kobold on the Solid Waste Rate Infrastructure Analysis related to the Potential DWR sale met twice. The

Task Force also received financial modeling assistance from Matt Williams. J Franco shared a draft evaluation of three scenarios:

- Option 1: the city purchases the property/facility from DWR
- Option 2: an agreement cannot be reached on purchasing the facility from DWR (this is broken into two sub-options:
  - 2a: the city does nothing and allows the franchise to expire
  - 2b: the city builds a new solid waste facility

J Franco stated the options are now irrelevant in light of the Council decision of the previous evening, so he did not discuss the detail of each option.

E Roberts-Musser asked if the Solid Waste Rate Infrastructure Analysis Subcommittee should be maintained for future investigations into the DWR topic. G Braun suggested that the subcommittee charge be reset, but that the commission may not be prepared at the moment to determine what the charge would be. O Bystrom suggested that the subcommittee could be reformed at a later date when the charge was clear, and moved to close the subcommittee until there was work to do. This motion failed for lack of a second.

The item was opened for public comment, and the following comment was received:

- Alan Pryor: He suggested that the Commission move immediately on the request by City Council for the URAC to review the negotiated amendment to the contract and location of the MRF, as the two-year time frame given will pass by quickly. He also suggested action in advance of direction, i.e. the commission undertake the work of evaluating the MRF option now. He advised the subcommittee to create a timeline of when to receive data and when to report to the full body, and stated that otherwise in his view the data would be delayed in getting to commissions.

## **B. Review, Update URAC Workplan**

S Gryczko introduced the item, opening up the workplan for changes based on comments received from the last meeting on the dissatisfaction with the layout of the plan. He asked that if the commissioners would like to make modifications that they do so now. He added that the current format of the workplan is consistent with the workplans of other commissions. J Franco discussed the similarities and differences between the workplan and the long range calendar, and noted the number of items on the long-range calendar that are currently unscheduled, including the joint meeting with the Finance and Budget Commission. Discussion on this item also included:

- The Integrated Waste Management Plan update, and the delay in presenting the draft plan due to the Solid Waste Rate Study underway, and the DWR Sale. There was a brief discussion of whether or not the item should be removed from the workplan.
- The overlap between the work of the Natural Resource Commission (NRC), FBC, Planning Commission and URAC, and where it makes sense for the commissions to work together to build bridges.
- The dynamic nature of the workplan, and the need/ability of the commission to make changes whenever necessary.

The item was opened for public comment, and the following comment was received:

- Alan Pryor: He remarked that the commission may wish to consider a liaison appointed to the commission from the Natural Resources Commission, and vice-versa, which would, in his opinion, go a long way to bring the groups together.

E Roberts-Musser moved, seconded by O Bystrom, to approve the workplan as presented. During discussion of this item, G Braun asked if E Roberts Musser would receive a friendly amendment to the motion, to remove the ‘review of Community Choice Energy rate impacts and categories’ from the current plan. He stated that the commission did not have an arrangement to represent Davis in the matter, and that there was no current request to do it. During the discussion, L Frerichs (as a representative of the board of VCEA) stated that he would bring the question of whether or not individual jurisdictions within the VCEA should be requested to provide feedback on rate setting. After discussion the friendly amendment was rejected by E Roberts-Musser, and after the vote, the motion passed as follows:

Ayes: Braun, Bystrom, Kristov, Franco, McCann, Roberts-Musser, Troost

Noes:

Absent: Azam

#### **D. Solid Waste Rate Study Draft - Yard Material Collection Service Alternatives Review and Survey Development.**

As requested, the last item on the agenda, the Solid Waste Rate Study, was moved to be heard out of the originally presented order. G Braun prefaced the item by saying that the work done preparing and executing the survey was excellent, and he was pleased that six of the commissioners completed the survey. He remarked that he had completed the survey twice, although staff had apparently not received either input. He asked Richard Tsai to describe how the commission got to this point in the process, what the commission needs to accomplish from here, and what that path looks like.

Richard Tsai discussed the Solid Waste Rate Study, and the focus on the loose in the streets (LITS) yard material pile collection program. The consultant conducting the study had provided 12 alternatives for adjusting the program, which were reviewed by the Commission in January. The Commissioners were asked to rank their top choices for the alternatives, not to eliminate options from consideration in the study, but to develop further the public survey on preferred changes in the LITS program. The current timeline for the study is to release the survey as soon as possible, and to bring the study for review and recommendation to the URAC and the NRC in March prior to bringing it before council in June. R Tsai presented the summary of the rankings provided by the URAC in their survey responses as a PowerPoint presentation. Discussion of the item included the following:

- Confusion on the part of some commissioners to know what criteria to apply to the ranking, whether that criteria is based on personal opinion, understanding of community opinion, or based on other objectives
- The difficulty of following the options (too many, very similar)
- The merits of the elimination of the service based on cost, environmental concerns and convenience to residents
- The possible option to provide the residents with a choice to opt-out, and provide a credit, along with the pros and cons of offering an opt-out

After this discussion, R McCann moved, seconded by J Franco, to approve ranking of the options as presented in the table by staff. O Bystrom offered a friendly amendment, accepted by the mover and the second, to summarize options E, D, F and C into one question. The motion passed by the following votes:

Ayes: Bystrom, Kristov, Franco, McCann, Roberts-Musser, Troost

Noes: Braun

Absent: Azam

G Braun stated that it was clear the city wanted to eliminate the service and there needed to be more clarity on opting in or out of the service.

The item was opened for public comment, and the following comments were received:

- Larry Guenther: He suggested the commission review eliminating the on-street yard collection pile pickup in the leaf season, but keep the collection in the spring, as that's when weeding and pruning often causes the cart to overflow. He suggested the commission attach rates to the options presented in the survey, and asked about the consequence of non-compliance with the program.
- Alan Pryor: He stated that the fine for a violation of the current on-street yard collection pile program is \$200. He also remarked on a community study conducted on pesticide use, and the necessity of leaving a space for comments within the survey. Finally, he suggested that the Commission review Nextdoor posts from December to January to see community comments on the yard pile collection program.

The item discussion moved to a review of the draft public survey. The goals of the survey were discussed, as well as variations of how to state questions. Whether or not to provide samples of rates, or a range of rates, rather than a percentage of impact on rates, as also discussed at length. The concern with option A was presented again by E Roberts-Musser, who emphasized that if the program is running out of funding and will be operating in a deficit, there will be a future impact of a rate increase even if the program remains unchanged, and to simplify as is drafted in the current survey would not be appropriate. Some indication needs to be given that there will be a rate increase even if the program were to remain unchanged. O Bystrom emphasized the importance of keeping the survey simple.

G Braun cautioned that the commission was not in a position to take a vote on the survey as presented, as the survey needed more work. Feedback from the commission was an overall satisfaction in the direction of the survey, and that the final product did not need to be reviewed again by the Commission. E Roberts-Musser stated that she was confident that R Tsai and J Troost could work together to complete the survey and send it out to the public. J Troost recommended that once the survey was in final draft form, it could be quickly reviewed by the commission before being released.

G Braun moved, seconded by O Bystrom that subject to the incorporation of comments received from the members of the commission and public, the commission approves the release of the survey. The motion passed by the following votes:

Ayes: Braun, Bystrom, Kristov, Franco, McCann, Roberts-Musser, Troost

Noes:

Absent: Azam

### **C. Process Update on Potential Davis Waste Removal (DWR) Sale.**

R Tsai introduced the item by thanking the members of the commission who made public comments at the Council meeting, and for the feedback received from the commission. He reiterated some of the discussion from the previous evening's Council deliberations, and reminded the commission of the reasons behind the confidentiality of the process. He also described the outcome of the Council discussion (to waive the city's Right of First Refusal and work with the URAC/NRC/FBC over the next two years on the location of the MRF) for the members of the commission that had not attended the City Council meeting the previous evening. He described the next steps in the process, bringing the transfer agreement and the amendment to the existing contract back on March 13 for Council review. He included some of the additional asks from the city, including:

- Extending the deadline for the Right of First Refusal response to 90 days
- Any future offer to sell by the contractor should include an itemized listing of sale price of each asset, instead of a lump sum offer.

Once the amendment and transfer are approved and signed, Recology Davis will begin operations. He said that Recology has stated they will do their best to retain the current workforce (as long as they pass the screening process). Following the close of the transaction, a two-year window is opened for the city to decide the best location for the Materials Recovery Facility (MRF), and whether or not that location is 2<sup>nd</sup> Street (where the current MRF is located), working through the process with the URAC, the NRC, and the FBC. Should it be determined that the city should construct an MRF other than at 2<sup>nd</sup> Street, it will also be an opportunity for the city to review whether or not it should own and operate the MRF, own and lease the MRF, or sell the MRF to Recology to own and operate. There was additional discussion around the logistics of the land purchase, should the review demonstrate that the MRF should be located on private property, and where the idea to move the MRF came from. L Kristov requested a direction from the city attorney's office that would provide a clear specification of the boundaries of the overall discussion on the item, as staff is unable to speak to what items were discussed in closed session with Council. O Bystrom recommended moving the item to the next meeting (in March), but R McCann pointed out that action is being taken by Council before the next scheduled URAC meeting, and if they want to provide feedback it needs to be done before the 13<sup>th</sup>. R McCann also requested specific language be added to the amendment to the contract specifying that Recology will have to move if the city decides to build a new MRF at some other location than 2<sup>nd</sup> St. S Gryczko stated he would work with the city attorney to clarify the language in the amendment. There was a back and forth exchange regarding the possibility of reviewing the amendment prior to the Council meeting on March 13, and whether or not the URAC should undertake the review without an existing charge from Council. L Frerichs stated that in his opinion, the commission could have a special meeting to review the details, and the information would all be public for review prior to the meeting. He reiterated that he would like to move forward with the URAC on the rate study and review the next steps with the sale of DWR.

The item was opened for public comment, and the following comments were received:

- Matt Williams: He said that Richard Tsai used the word inferred – and cautioned that the city look at the inference of Recology. He said that Recology made it clear that they do not want the City owning a MRF, and they clearly want a monopoly. He stated that the city would face the same situation in two years. He also stated that within Section 16-H of the existing contract, the city is required to make a determination that the sale

of DWR to Recology is in the public interest, and there is no evidence this analysis had been done.

- Alan Pryor: He reminded the commission that the discussion of the previous evening was only to respond to the right of first refusal, the next step is to negotiate the contract, and to demonstrate the DWR sale is in the public interest. He said the commission should look at the contract and should weigh in on the public interest question. He said the deadline set by Recology was arbitrary, and the commission should take their time and look at the contract carefully. He said just because the Council didn't exercise the right of first refusal, doesn't mean they have to sign the contract.
- Larry Guenther: He stated that the city will still exist in 100 years, and owning land was never a bad investment.

Returning to the commission discussion, the Commission discussed the need to hold a special meeting to review the amendment to the existing solid waste contract prior to the Council authorizing signature. R Tsai reminded the commission that the existing contract will not change, the only language that will change will be in the amendments. G Braun asked the Commission if they should offer input without invitation from the Council. . There was further discussion regarding the possible scheduling of a special meeting and the timing of Council packet posting, as the Commission would hold the meeting after the Council packet is posted. The commissioners debated the merits of providing input three days prior to the item being presented to the Council, and if the limited timeframe could allow for a thorough review of any URAC recommendations.

Additional public comment was provided from the following:

Alan Pryor: He reiterated his request for information on the appraisal, and communications from staff (redacted if necessary).

J Franco moved to schedule a special meeting on March 9. After discussion the motion was reworded to schedule a special meeting on March 9 (as the first choice) or March 12 (second choice – if the amendment is not available) to discuss and make recommendations to council on the amendments to the existing 2015 solid waste contract as a commission. The time to be determined. This motion was seconded by R McCann and passed by the following votes:

Ayes: Kristov, Franco, McCann, Roberts-Musser, Troost

Noes: Braun, Bystrom

Absent: Azam

## **7. Commission and Staff Communication**

### **A. Long Range Calendar.**

The following items were discussed by the Commission:

- The Solid Waste Rate Study item on the calendar for March was moved to the meeting in April.
- Several Commissioners requested an update on the data collected by DWR on the use of the Loose-In-The-Street (LITS) collection program. Staff will check on data availability and return with the information for the March meeting.

**8. Adjourn**

O Bystrom made a motion to adjourn the meeting, seconded by R McCann. The motion passed by the following votes and adjourned at 8:54pm:

Ayes: Braun, Bystrom, Kristov, Franco, McCann, Roberts-Musser, Troost

Noes:

Absent: Azam

Respectively Submitted by,

Adrienne Heinig

Administrative Analyst I